

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
NORTHWEST COOPERAGE CO., INC.,

Appellant,

vs.

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Respondent.

PCHB No. 476

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

THIS MATTER being the appeal of a \$500.00 civil penalty levied for an alleged oil spill under RCW 90.48.350 and 90.48.144; having come on regularly for hearing before the Pollution Control Hearings Board on the 15th day of February, 1974, at Seattle, Washington; and appellant Northwest Cooperage Co., Inc. appearing pro se and respondent Department of Ecology appearing through Charles W. Lean, Assistant Attorney General; and Board members present at the hearing being Walt Woodward, presiding and Mary Ellen McCaffree; and the Board having considered the sworn testimony, exhibits, records and files herein and arguments of the parties and having entered on the 20th day of March, 1974, its proposed Findings of Fact, Conclusions of Law and Order, and the Board having

1 served said proposed Findings, Conclusions and Order upon all parties  
2 herein by certified mail, return receipt requested and twenty days  
3 having elapsed from said service; and

4 The Board having received no exceptions to said proposed Findings,  
5 Conclusions and Order; and the Board being fully advised in the premises;  
6 now therefore,

7 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
8 Findings of Fact, Conclusions of Law and Order, dated the 20th day of  
9 March, 1974, and incorporated by this reference herein and attached  
10 hereto as Exhibit A, are adopted and hereby entered as the Board's  
11 Final Findings of Fact, Conclusions of Law and Order herein.

12 DONE at Lacey, Washington, this 12th day of April, 1974.

13 POLLUTION CONTROL HEARINGS BOARD

14 Walt Woodward  
15 WALT WOODWARD, Chairman  
16

17  
18 Mary Ellen McCaffree  
19 MARY ELLEN McCAFFREE, Member  
20  
21  
22  
23  
24

26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW,  
AND ORDER

CERTIFICATION OF MAILING

I, LaRene C. Barlin, certify that I mailed copies of the foregoing document on the 2<sup>nd</sup> day of April, 1974, to each of the following parties:

Mr. Herman Trotsky  
Northwest Cooperage Co., Inc.  
7152 First Avenue South  
Seattle, Washington 98108

Mr. Charles W. Lean  
Assistant Attorney General  
Department of Ecology  
St. Martin's College  
Olympia, Washington 98504

Department of Ecology  
St. Martin's College  
Olympia, Washington 98504

the foregoing being the last known post office addresses of the above-named parties. I further certify that proper postage had been affixed to the envelopes deposited in the U.S. mail.

  
LARENE C. BARLIN  
POLLUTION CONTROL HEARINGS BOARD

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

1

— *—*

0  
1  
2  
3  
4

5  
6  
7

8

**EXHIBIT A**

1 Appellant and counsel made closing arguments.

2 From testimony heard, exhibits examined and arguments considered,  
3 the Pollution Control Hearings Board makes these

4 FINDINGS OF FACT

5 I.

6 Appellant, operating a plant at 7152 First Avenue South, Seattle,  
7 Washington, cleans and repairs 55 gallon steel drums for reuse. The  
8 business, performing the useful function of recycling containers, is  
9 pollutant prone, using caustics to remove oil and other sludge. Under  
10 terms of Waste Discharge Permit Number T-3064, issued by respondent's  
11 predecessor agency on October 9, 1968 and valid until September 30, 1973,  
12 appellant was required to limit effluent discharges to no more than ten  
13 parts per million of total oils and to contain land dumped chemical and  
14 oil sludges from entering the state's waterways.

15 II.

16 On August 16, 1973, appellant was pumping waste oil and caustic  
17 soda into a dumpster for removal from the premises. Due to inattention  
18 of an employee, the dumpster was permitted to overflow, causing about  
19 400 gallons of waste oil and caustic soda to spill into the ground with  
20 much of it entering the nearby Duwamish Waterway. There were no land  
21 dikes to contain the sludge or spilled material.

22 III.

23 On September 13, 1973, and in connection with the above described  
24 incident, respondent issued Notice of Penalty No. DE 73-175 to appellant,  
25 citing RCW 90.48.144 and 90.48.350 and invoking a \$500.00 civil penalty,  
26 which is the subject of this appeal.

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW,

AND ORDER

1 IV.

2 Since the above described incident, appellant has spent about  
3 \$5,000.00 in cleaning up his property, diking, and installing drains,  
4 pumps and other pollution control equipment. Appellant, with limited  
5 resources, still has other pollution control projects for which he  
6 desires to expend funds.

7 V.

8 Any conclusion of law hereinafter recited which should be deemed  
9 a finding of fact is hereby adopted as such.

10 From these findings, the Pollution Control Hearings Board comes  
11 to these

12 CONCLUSIONS

13 I.

14 Appellant, on August 16, 1973, broached at least two conditions  
15 of Waste Discharge Permit Number T-3064 and, therefore, was in violation  
16 of RCW 90.48.144 and 90.48.350.

17 II.

18 The invoked penalty, being but one-tenth of the maximum allowable  
19 amount which could be levied under RCW 90.48.144, is reasonable and  
20 lenient. But its collection will delay appellant from spending a like  
21 amount in appellant's commendable program of pollution control.

22 III.

23 Any findings of fact which should be deemed a conclusion of law is  
24 hereby adopted as such.

25 Therefore, the Pollution Control Hearings Board makes this

26 FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW,  
AND ORDER

ORDER

The appeal is denied but the \$500.00 civil penalty is suspended upon these two conditions:

- (a) Appellant is to incur no similar violation within a period of six months from the date this order becomes final and
- (b) Appellant is to satisfy respondent that appellant has spent \$500.00 for pollution control purposes during the period of six months from the date this order becomes final.

DONE at Lacey, Washington, this 20<sup>th</sup> day of March, 1974.

POLLUTION CONTROL HEARINGS BOARD

Walt Woodward  
WALT WOODWARD, Chairman

Mary Ellen McCaffree  
MARY ELLEN McCAFFREE, Member

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER